IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11297 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMNATH RAMPRASAD KAHAR

Versus

COMMISSIONER OF POLICE

Appearance:

MR ANIL S DAVE for Petitioner

MR HH PATEL for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/02/2001

ORAL JUDGEMENT

#. Learned counsel for the petitioner challenging the order of the Police Commissioner, Vadodara city dated 10-9-2000 under which the petitioner was ordered to be detained as a dangerous person contended that there is a delay of four months in passing of the detention order

from the date the case registered against the petitioner.

#. This matter was admitted by the court on 6-11-2000 and rule was made returnable on 27-11-2000, and more than sufficient time was available to the respondents if they really and honestly were desirous of filing reply. Still one more opportunity was granted to the respondents and reference here may have to the order of this Court dated 8-2-01. Despite of granting of the time, the respondents have not filed reply to the special civil application and as such the averments made in the special civil application stand uncontroverted.

#. Learned counsel for the respondents submitted that the statements of three witnesses recorded on 15-7-2000, 30-7-2000 and 12-8-2000 has taken some time and the delay may not be taken to be fatal to this matter.

#. I do not find any merits in the contention of the learned counsel for the respondents. The statements of privileged witnesses were recorded on 13-8-2000, 15-8-2000 and 16-8-2000. The criminal case was registered against the petitioner on 20-2-2000 and this detention order has been passed on 10-9-2000. I find that the statements of the privileged witnesses were recorded only to give patch to this delay which is there in passing of the detention order. Otherwise also, in this case, the first statement of privileged witness was recorded on 13-8-2000 and in case it would have been really a case of maintaining of public peace and tranquillity why the detaining authority waited for verification of the statements till 6-9-2000. So from these facts, I find that this delay in passing of the detention order has not been satisfactorily explained and only on this ground this petition deserves acceptance. The contention of the learned counsel for the petitioner finds support from the decision of the Hon'ble Supreme Court in the case of Pradeep Nilkanth Paturkar vs. Shri S. Ramamurthi reported in JT 1992 (3) SC 261.

#. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 10-9-2000 is quashed and set aside. The petitioner Ramnath Ramprasad Kahar, the detenu, at present in Junagadh District Jail, Junagadh be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

****

zgs/-